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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,611	03/30/2001	Gregory L. Miller	42390.P10732	6045

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EXAMINER

CASIANO, ANGEL L

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 07/15/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Applicati n No.

09/823,611

Applicant(s)

MILLER, GREGORY L.

Examiner

Angel L. Casiano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. This Office Action is in response to application filed 30 March 2001.
2. Claims 1-30 are pending.

#### *Specification*

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because of the following informalities:

- Page 9, [0019]: "is" should be deleted.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 3 recites the limitation "computer" in reference to claim 1. This limitation is included in claim 3, which depends on claim 1, without the former claim disclosing a "computer". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-3, 8-10, 20-21, 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Broyles et al. [US 6,356,965 B1].

Regarding claim 1, Broyles et al. teaches an apparatus (see Abstract) including a processor (see Abstract), a port to connect an input device (see col. 3, line 50; col. 11, lines 62-64), and firmware memory containing software to support the input device (see col. 11, lines 64-65). In the reference, if the apparatus is off (see col. 5, lines 56-60) and a switch is pressed (see col. 6, lines 2-3), then software supporting the input device is loaded (see col. 5, lines 26-27; col. 6, lines 3-6; col. 12, lines 60-64).

In consideration of claim 2, the switch disclosed by Broyles et al. is the power switch of the apparatus (see col. 5, lines 32, 58; col. 6, line 3; col. 13, lines 11-12).

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As for claim 3, Broyles et al. teaches a computer (see Abstract; Figs. 1-3; col. 3, line 50; col. 4, lines 44-45; col. 6, lines 40-41; col. 11, line 61) running software residing in the firmware memory if a switch (see col. 11, lines 66-67) is pressed at a time when the apparatus is turned off (see col. 5, lines 56-67; col. 6, lines 1-7).

As for claim 8, the port disclosed by Broyles et al. is a keyboard port (see col. 13, lines 1-2).

In consideration of claim 9, the input device disclosed by the reference is a keyboard (see col. 13, lines 1-2).

Considering claim 10, the apparatus cited by Broyles et al. is a computer system (see Abstract; Figs. 1-2).

Regarding claim 20, Broyles et al. teaches an apparatus (see Abstract) including a processor (see Abstract) and firmware memory containing setup software (see col. 11, lines 64-65). If the cited apparatus is off (see col. 5, lines 56-60) and a switch is pressed (see col. 6, lines 2-3), then setup software is loaded and run (see col. 5, lines 26-27; col. 6, lines 3-6; col. 12, lines 60-64).

As for claim 21, the switch disclosed by Broyles et al. is the power switch of the apparatus (see col. 5, lines 32, 58; col. 6, line 3; col. 13, lines 11-12).

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As for claim 24, the apparatus cited by Broyles et al. is a computer system (see Abstract; Figs. 1-2).

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4-7, 11, 22, 23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles et al [US 6,356,965 B1].

Considering claims 4 and 5, Broyles et al. discloses the use of a switch to control software residing in firmware memory (see Rejections above). However, the cited art does not specify pressing and holding the switch for a specific (3 seconds) or variable amount of time, as claimed. Nonetheless, Broyles et al. teaches the switch for the apparatus as being configurable (see col. 11, lines 66-67; col. 13, lines 11-12). One of ordinary skill in the art would have been motivated to specify a period of time to hold the switch, since it is known that prior art apparatuses allow an amount of time (see col. 2, line 3) to determine if firmware software is loaded (see col. 2, line 5). Therefore, since the cited prior art teaches the use of a configurable switch to control the step of loading supporting software, it would have been obvious to establish a period of time to cause the software to load, since the prior art teaches an amount of time for these purposes. Furthermore, the prior art teaches a period of 3 seconds (see col. 2, line 3) in

order to execute the software. Accordingly, one of ordinary skill in the art would have been motivated to adjust a period of time, since the switch disclosed by Broyles et al. is configurable.

As for claims 6 and 7, Broyles et al. does not specify the port for the input device (see col. 3, line 50; col. 11, lines 63) as a universal serial bus port. However, the input device is specified by the reference as being a keyboard (see col. 13, lines 1-2). It is well known in the art that keyboards are connected using a universal serial bus port (USB). Therefore, it would have been obvious to specify the port for the input device as a USB port, since the input device included in the reference is a keyboard.

In consideration of claim 11, Broyles et al. does not explicitly cite an audio/visual entertainment appliance. The cited reference teaches the apparatus as being a computer system (see Abstract; Figs. 1-2). Nonetheless, it would have been obvious to one of ordinary skill in the art that computer systems are widely used for audio/visual entertainment purposes.

As for claims 22 and 23, Broyles et al. discusses the use of a switch to control software residing in firmware memory. The cited art, however, does not specify pressing and holding the switch for a specific (3 seconds) or variable amount of time, as claimed. Nonetheless, Broyles et al. teaches the switch for the apparatus as being configurable (see col. 11, lines 66-67; col. 13, lines 11-12). One of ordinary skill in the art would have been motivated to specify a period of time to hold the switch, since it is known that prior art apparatuses allow an amount of time (see col. 2, line 3) to determine if firmware software is loaded (see col. 2, line 5). Therefore, since the cited

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prior art teaches the use of a configurable switch to control the loading of supporting software, it would have been obvious to establish a known period of time to cause the software to load, since the prior art teaches an amount of time for these purposes. Furthermore, the prior art teaches a period of 3 seconds (see col. 2, line 3) in order to execute the software. Accordingly, one of ordinary skill in the art would have been motivated to adjust a period of time, since the switch disclosed by Broyles et al. is configurable.

Considering claim 25, Broyles et al. does not explicitly cite an audio/visual entertainment appliance. The cited reference teaches the apparatus as being a computer system (see Abstract; Figs. 1-2). It would have been obvious to one of ordinary skill in the art at the time the invention was made that computer systems are widely used for audio/visual entertainment purposes.

Regarding claims 12-19, these constitute the method oriented to the apparatus disclosed in claims 1-11. Therefore, claims 12-19 are rejected under the same rationale.

Regarding claims 26-30, these are oriented to computer readable mediums for the apparatus disclosed in claims 1-11, previously rejected. Accordingly, the present claims are rejected under the same rationale.



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***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Kou [US 5,978,923] teaches method and apparatus for a computer power management function including selective sleep states.
- Blackledge, Jr., et al. [US 5,388,156] discloses a personal computer system with security features and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angel L. Casiano whose telephone number is 703-305-8301. The examiner can normally be reached on 800-500pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239, for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
JEFFREY GAFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

alc  
July 8, 2003